

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

vs.

Case No. 8:11-CR-28-T-27AAS

PATRICK LEAKS

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ORDER

BEFORE THE COURT is Defendant's *pro se* "Motion for a Second Reconsideration to Movant's U.S.S. Guideline Amendment 782" (Dkt. 133). The motion is **DENIED**.

Previously, it was determined that Defendant was ineligible for a sentence reduction under Amendment 782 because he is a career offender (Dkt. 132). He seeks reconsideration, contending that his two Florida convictions for fleeing and eluding are no longer predicate offenses for career offender purposes. Circuit precedent forecloses his contention. A Florida conviction for fleeing and eluding is a predicate "crime of violence" for career offender purposes under USSG § 4B1.2. *United States v. Orisnord*, 483 F.3d 1169, 1183 (11th Cir. 2007), *cert. denied*, *Polynice v. United States*, 552 U.S. 1049 (2007).

Amendment 782 amended the Drug Quantity Table in USSG § 2D1.1. A career offender's guidelines range is calculated from USSG § 4B1.1, not § 2D1.1. An amendment to § 2D1.1 therefore does not affect a career offender's guidelines range. Defendant is ineligible for a sentence reduction under § 3582(c)(2). *See United States v. Foster*, 660 F. App'x 777, 778-79 (11th Cir. 2016).

DONE AND ORDERED this 4th day of December, 2019.

/s/ James D. Whittemore

**JAMES D. WHITTEMORE
United States District Judge**

Copies to: Pro se Defendant, Counsel of Record, U.S. Probation Office